

EXHIBIT 96

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

- - -

4 IN RE: NATIONAL : HON. DAN A. POLSTER
5 PRESCRIPTION OPIATE : MDL NO. 2804
6 LITIGATION :
7 :
8 APPLIES TO ALL CASES : NO.
9 : 1:17-MD-2804

- HIGHLY CONFIDENTIAL -

SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

- - -

December 6, 2018

- - -

12 Videotaped sworn deposition of
13 RICHARD J. FANELLI, Ph.D., taken
14 pursuant to notice, was held at DECHERT,
15 LLP, 1095 6th Avenue, New York, New
16 York, beginning at 9:09 a.m., on the
17 abovedate, before Margaret M. Reihl, a
18 Registered Professional Reporter,
19 Certified Shorthand Reporter, Certified
20 Realtime Reporter, and Notary Public.

- - -

22 GOLKOW LITIGATION SERVICES
23 877.370.3377 ph | 917.591.5672 fax
24 deps@golkow.com

<p style="text-align: right;">Page 478</p> <p>1 correct?</p> <p>2 MR. SNAPP: Objection, beyond the</p> <p>3 scope.</p> <p>4 THE WITNESS: I'm aware of that,</p> <p>5 yes.</p> <p>6 BY MS. DICKINSON:</p> <p>7 Q. And in the 15 years since 2003,</p> <p>8 three of its top executives also pled guilty to</p> <p>9 charges from the federal government, correct?</p> <p>10 MR. SNAPP: Objection, beyond the</p> <p>11 scope.</p> <p>12 THE WITNESS: Yes.</p> <p>13 BY MS. DICKINSON:</p> <p>14 Q. And that guilty plea was because</p> <p>15 Purdue was guilty of criminal misbranding,</p> <p>16 correct?</p> <p>17 MR. SNAPP: Objection, beyond the</p> <p>18 scope.</p> <p>19 THE WITNESS: As I stated --</p> <p>20 MR. SNAPP: And form.</p> <p>21 THE WITNESS: Sorry.</p> <p>22 MR. SNAPP: Go ahead.</p> <p>23 THE WITNESS: As I stated</p> <p>24 yesterday, I'm not -- it's not part of</p>	<p style="text-align: right;">Page 480</p> <p>1 Q. Okay. And Exhibit 14 is the plea</p> <p>2 agreement that Purdue entered on May 2000 -- or</p> <p>3 May 10, 2007.</p> <p>4 Do you see that date at the top?</p> <p>5 A. Stamped on the clerk -- that</p> <p>6 stamp are you talking about? Yes, I see it.</p> <p>7 Q. Okay. And is this document the</p> <p>8 plea agreement that Purdue entered in the</p> <p>9 federal criminal case?</p> <p>10 MR. SNAPP: Object to the form.</p> <p>11 THE WITNESS: That's what's</p> <p>12 stated at the top, yes.</p> <p>13 BY MS. DICKINSON:</p> <p>14 Q. Do you have any reason to believe</p> <p>15 this is not the plea agreement that Purdue</p> <p>16 entered into with the U.S. Government?</p> <p>17 A. No.</p> <p>18 Q. Can you read, please, under the</p> <p>19 charge to which Purdue is pleading guilty and</p> <p>20 waiver of rights, the first sentence, please.</p> <p>21 A. On the first page?</p> <p>22 MR. SNAPP: Objection to this</p> <p>23 entire line --</p> <p>24 MS. DICKINSON: First page.</p>
<p style="text-align: right;">Page 479</p> <p>1 my responsibility to understand the</p> <p>2 details around the legal aspects of</p> <p>3 that.</p> <p>4 BY MS. DICKINSON:</p> <p>5 Q. As the head of regulatory</p> <p>6 affairs, it's not your responsibility to</p> <p>7 understand what the company pled guilty to in a</p> <p>8 Federal Court case?</p> <p>9 MR. SNAPP: Object to the form.</p> <p>10 THE WITNESS: I understand what</p> <p>11 the issues were, but the legal</p> <p>12 definitions of those as it affects the</p> <p>13 proper regulations around our products</p> <p>14 I'm aware of.</p> <p>15 BY MS. DICKINSON:</p> <p>16 Q. Could you pull out I think it's</p> <p>17 Exhibit 15, please. It's the guilty plea. I</p> <p>18 don't know if that's 15, 16 or 14.</p> <p>19 MR. SNAPP: Fifteen is the Agreed</p> <p>20 Statement of Facts.</p> <p>21 MS. DICKINSON: Okay. It should</p> <p>22 be 14 then.</p> <p>23 THE WITNESS: I have it.</p> <p>24 BY MS. DICKINSON:</p>	<p style="text-align: right;">Page 481</p> <p>1 MR. SNAPP: -- as beyond the</p> <p>2 scope of my questioning and the</p> <p>3 deposition notice.</p> <p>4 MS. DICKINSON: Not even close to</p> <p>5 beyond the scope of your questioning.</p> <p>6 BY MS. DICKINSON:</p> <p>7 Q. Please answer the question.</p> <p>8 A. Purdue will enter a plea of</p> <p>9 guilty to Count One of an Information, charging</p> <p>10 it with felony of misbranding a drug, with the</p> <p>11 intent to defraud or mislead, in violation of</p> <p>12 Title 21 U.S. code Section 331(a) and 333(a)(2).</p> <p>13 Q. Okay. And that is Purdue</p> <p>14 pleading guilty to the counts you just read,</p> <p>15 correct?</p> <p>16 MR. SNAPP: Objection, beyond the</p> <p>17 scope and form.</p> <p>18 THE WITNESS: Again, I think, as</p> <p>19 I stated before, I have -- I have not</p> <p>20 the background to, you know, talk about</p> <p>21 this.</p> <p>22 BY MS. DICKINSON:</p> <p>23 Q. You don't know as the head of</p> <p>24 regulatory affairs whether that is the charge</p>

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1 that your company, Purdue, pled guilty to in
2 2007; am I correct?

3 MR. SNAPP: Objection, object to
4 the form. Objection as beyond the
5 scope.

6 THE WITNESS: What I'm saying, I
7 don't know what the sections are that
8 are listed there, so the specific
9 details.

10 BY MS. DICKINSON:

11 Q. Do you know that Purdue was
12 pleading guilty to federal criminal charges?

13 A. Yes.

14 Q. Let's turn to the second page.
15 And there's a list here, but then the first full
16 paragraph that starts with Purdue, can you
17 please read that?

18 A. From the top here?

19 Q. The first paragraph that starts
20 with Purdue in capital letters.

21 MR. SNAPP: Objection as beyond
22 the scope.

23 THE WITNESS: On the second page.
24 "Purdue is pleading guilty as described

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1 above because Purdue is in fact guilty
2 and because Purdue believes it is in its
3 best interest to do so and not because
4 of any threats or promises, other than
5 the terms of the Plea Agreement,
6 described herein, in exchange for its
7 plea of guilty."

8 BY MS. DICKINSON:

9 Q. Okay. And Purdue entered this
10 guilty plea during the time that Purdue was
11 having all these communications with the FDA
12 that you just described a few minutes ago; is
13 that right?

14 MR. SNAPP: Object to the form.

15 THE WITNESS: Yes, we were
16 having -- of course, yeah.

17 BY MS. DICKINSON:

18 Q. And because Purdue was
19 communicating with the FDA and providing it
20 materials doesn't mean that Purdue was in any
21 way immunized from following the law, correct?

22 MR. SNAPP: Object to the form.

23 THE WITNESS: Correct.

24 BY MS. DICKINSON:

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1 Q. You were read a statement in your
2 examination by your counsel about OxyContin's
3 importance in treating pain out of the GAO
4 report.

5 Do you remember that?

6 A. Yes.

7 Q. Do you have any idea how many
8 Americans have died as a result of opioid
9 overdose?

10 MR. SNAPP: Objection, beyond the
11 scope, form.

12 THE WITNESS: I do not.

13 BY MS. DICKINSON:

14 Q. As the head of regulatory affairs
15 at Purdue, you have no idea how many Americans
16 have died from an opioid overdose in this
17 country today?

18 MR. SNAPP: Object to the form.
19 Objection as beyond the scope.

20 THE WITNESS: I'm aware that the
21 opiate crisis is a tragedy and that many
22 individuals have died because of opiate
23 abuse, yes.

24 BY MS. DICKINSON:

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1 Q. Are you aware that the CDC and
2 the National Bureau of Vital Statistics reports
3 that number as several hundred thousand people
4 that have died?

5 MR. SNAPP: Objection as beyond
6 the scope. Objection as to form.

7 THE WITNESS: I know that the CDC
8 has made such reports, yes.

9 BY MS. DICKINSON:

10 Q. And are you generally aware of
11 the numbers in those reports?

12 MR. SNAPP: Objection, beyond the
13 scope.

14 THE WITNESS: Generally, yes.

15 BY MS. DICKINSON:

16 Q. Does Purdue acknowledge that
17 there is an opioid epidemic in America today?

18 MR. SNAPP: Objection, beyond the
19 scope.

20 THE WITNESS: Purdue acknowledges
21 that there is an opioid crisis and are
22 taking -- have and will continue to take
23 steps to do what we can to address that
24 crisis.

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1 BY MS. DICKINSON:

2 Q. Do you not want to call it an
3 epidemic?

4 A. Not that I don't want to. The
5 definition of an epidemic varies. I'm not sure
6 how to define it.

7 Q. Is it fair to call what's
8 happening in this country an opioid epidemic?

9 MR. SNAPP: Objection, beyond the
10 scope.

11 THE WITNESS: I think it's fair
12 to call it a crisis.

13 BY MS. DICKINSON:

14 Q. I'm not understanding the
15 difference. Why are you differentiating between
16 the word epidemic and crisis?

17 MR. SNAPP: Object to the form.

18 THE WITNESS: Epidemic might be
19 another term that could be, but it
20 depends how it's defined.

21 BY MS. DICKINSON:

22 Q. So would you agree with me that's
23 an accurate way to describe what is going on in
24 this country today or not?

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1 MR. SNAPP: Object to the form.
2 Objection as beyond the scope.

3 THE WITNESS: It's one way, yes.

4 BY MS. DICKINSON:

5 Q. Okay. Is Purdue aware that
6 millions of people in America today are either
7 addicted or dependent to prescription opioids?

8 MR. SNAPP: Objection, beyond the
9 scope.

10 THE WITNESS: We are -- we are
11 aware that prescription opiates
12 contribute to opiate addiction. The
13 numbers we talked earlier about, the
14 rates, it's a complex issue, whether
15 pre-existing conditions, other agents
16 and so forth, the numbers are still the
17 science we talked about that we're
18 working on.

19 BY MS. DICKINSON:

20 Q. I didn't ask what was the reason.
21 I asked if Purdue was aware that millions of
22 Americas are either addicted to or dependent on
23 prescription opioids? Is Purdue aware of that?

24 MR. SNAPP: Objection, beyond the

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1 scope and form.

2 THE WITNESS: We're aware that
3 many Americans, I don't know the exact
4 number, but there's many statements have
5 abuse, opiate abuse use disorder, yes.

6 BY MS. DICKINSON:

7 Q. Are you aware that federal
8 agencies like the CDC had put that number at
9 millions?

10 MR. SNAPP: Objection.

11 THE WITNESS: Yes.

12 BY MS. DICKINSON:

13 Q. Does Purdue bear any
14 responsibility for those numbers?

15 MR. SNAPP: Objection, beyond the
16 scope.

17 THE WITNESS: As I stated, the
18 opiate addiction and abuse crisis is
19 serious and a tragedy. I'm not -- it's
20 not my place to assign blame. As I
21 said, it's a very complex issue, and
22 there are numerous factors involved in
23 this crisis, and we're doing -- Purdue
24 is doing what we can to address it.

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1 BY MS. DICKINSON:

2 Q. I wasn't asking you to assign
3 blame.

4 I asked whether Purdue bears any
5 responsibility for the opioid crisis?

6 MR. SNAPP: Objection, beyond the
7 scope and form.

8 THE WITNESS: I don't think
9 that's for me to answer.

10 BY MS. DICKINSON:

11 Q. As the head of regulatory affairs
12 at Purdue and a long-time employee since 2000,
13 you can't answer that question?

14 MR. SNAPP: Object to the form.

15 THE WITNESS: The -- I think I've
16 answered that the opiate crisis is a
17 tragedy and that Purdue is doing what we
18 can to address it.

19 BY MS. DICKINSON:

20 Q. But you -- sorry. Go ahead.

21 A. Prescription opioids are -- there
22 have been abuse of prescription opioids that
23 have been identified in the early 2000s, so it
24 is -- it's a part of the complex situation, and,

<p style="text-align: right;">Page 490</p> <p>1 as I said, Purdue is doing what we can to 2 address it.</p> <p>3 Q. Sitting here today as Purdue's 4 corporate witness, you either can't or won't 5 answer whether Purdue bears responsibility for 6 causing, at least in part, that crisis; is that 7 true?</p> <p>8 MR. SNAPP: Objection to form. 9 Objection as beyond the scope.</p> <p>10 THE WITNESS: As I said, it's -- 11 the determinants of that crisis are 12 multifactorial.</p> <p>13 BY MS. DICKINSON: 14 Q. That's not my question. 15 Is Purdue and its conduct one of 16 those factors that caused or contributed to the 17 opioid crisis?</p> <p>18 MR. SNAPP: Object to the form. 19 Objection as beyond the scope.</p> <p>20 THE WITNESS: There are -- 21 prescription opioids are part of -- one 22 of the factors, so Purdue markets those, 23 so it's part of the -- there is a 24 contribution to the fact -- to the</p>	<p style="text-align: right;">Page 492</p> <p>1 determined.</p> <p>2 BY MS. DICKINSON: 3 Q. So your answer is no? 4 A. Yes.</p> <p>5 MS. DICKINSON: That's all I have 6 for now.</p> <p>7 THE VIDEOGRAPHER: Off the 8 record?</p> <p>9 MS. DICKINSON: Sure.</p> <p>10 THE VIDEOGRAPHER: The time is 11 12:04 p.m., going off the record. 12 (Pause.) 13 (Document marked for 14 identification as Purdue-Fanelli-69.)</p> <p>15 THE VIDEOGRAPHER: Okay. We are 16 back on the record. The time is 17 12:06 p.m.</p> <p>18 BY MR. STEWART: 19 Q. Sir, do you have an exhibit in 20 front of you? 21 A. I do. 22 Q. What's the exhibit number? 23 A. Sorry. 069. 24 Q. And do you recall your attorney</p>
<p style="text-align: right;">Page 491</p> <p>1 crisis.</p> <p>2 BY MS. DICKINSON: 3 Q. And are you saying that Purdue, 4 by its marketing, did cause or contribute to the 5 opioid crisis by that statement?</p> <p>6 MR. SNAPP: Object to the form. 7 Objection as beyond the scope.</p> <p>8 THE WITNESS: I would not say 9 that it caused the opiate crisis.</p> <p>10 BY MS. DICKINSON: 11 Q. Did it contribute to it? 12 MR. SNAPP: Object to the form. 13 Objection as beyond the scope.</p> <p>14 THE WITNESS: The prescription 15 opioids did contribute.</p> <p>16 BY MS. DICKINSON: 17 Q. And Purdue's conduct in 18 marketing, did it contribute to the opioid 19 crisis?</p> <p>20 MR. SNAPP: Object to the form. 21 Objection as beyond the scope.</p> <p>22 THE WITNESS: I would say that 23 the -- as the GAO report said there, 24 that based on the data, that's not been</p>	<p style="text-align: right;">Page 493</p> <p>1 just asked you about the GAO report and 2 statements made about the ability to monitor 3 diversion? Do you recall getting asked about 4 that?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. And do you see in front of 7 you a document that was produced during the time 8 you were in your current capacity? 9 A. Yes.</p> <p>10 Q. Okay. Are you familiar with the 11 document? 12 A. Yes.</p> <p>13 Q. What is it? 14 A. We talked about earlier the 15 postmarketing requirements, and FDA -- we talked 16 about there's -- it's changed over time, but we 17 talked about a protocol is required to be 18 submitted, but also interim reports are 19 required, and this is part of annual report to 20 satisfy that requirement.</p> <p>21 Q. And could you turn to page 16. 22 Do you see starting with the very first word on 23 page 16 -- oh, pardon me, I said page 16. Could 24 you turn to page 26, 26 in the document or 6795</p>